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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

(202) 457-8656

May 11, 1994

Richard Metzger, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20054

Re: EX PARTE PRESENTATION in CC Docket No. 92-77

Dear Mr. Metzger:

The record in the Billed Party Preference ("BPP") proceeding (CC Docket No. 92-77) demonstrates that the TOCSIA regulatory framework is currently promoting consumer choice in the operator services ("0+") marketplace. Consumers already can reach their preferred carrier at pay telephones through access dialing, and such access will soon be available at all aggregator locations in accordance with the Commission's unblocking rules. By contrast, even supporters of BPP concede that it will take years of effort and cost at least one billion dollars before that concept yields benefits to even a single consumer. However, we recognize from our meeting that at least your staff continues to have concerns over the reasonableness of rates and consumer choice. To the extent that the reasonableness of rates and consumer choice are the key drivers for BPP, the answer is far more straightforward: targeted enforcement of TOCSIA requirements is a far more effective and cost-efficient means of immediately addressing consumer protection issues in the 0+ market than BPP.

The Commission has ample authority to ensure that Operator Service Providers ("OSPs") have unblocked, that they brand appropriately, and that OSPs rates and practices are just and reasonable. On the latter point, during our April 28, 1994, meeting with you on BPP issues, the question arose as to whether states are using similar authority to directly or indirectly restrain intrastate operator service rate levels. Our research reveals that some form of 0+ "rate benchmark" exists in 27 of the

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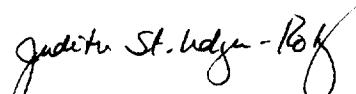
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41 multi-LATA states, with the type varying by state. In some states, OSPs may not charge a rate higher than the dominant OSP's daytime rate. In other states the maximum is set at the dominant OSP's rate plus a percentage buffer. Still others states use the highest facility-based OSP's rate as a "benchmark" that may not be exceeded absent a demonstration that a higher rate is just and reasonable. A list of states that impose benchmarks or rate caps on intrastate inter-LATA 0+ rates is attached.

The Commission has reported to Congress that the TOCSIA regulatory framework is generally working, and that access code dialing has gained a high degree of acceptance among consumers. At best, BPP will benefit only the small minority of consumers who have not yet memorized their preferred carrier's five-digit access code. Enforcing existing TOCSIA regulations -- including, if necessary as the only alternative to BPP, the establishment of a benchmark rate for evaluating whether an OSP's rates are just and reasonable -- will effectively address this minority's interests effectively, and at far less cost to all consumers and the 0+ industry, than implementing BPP.

In accordance with the Commission's rules, 47 C.F.R. § 1.1206, I am filing an original and two copies of this letter with the Secretary. Please direct any questions about this filing to me.

Sincerely


Judith St. Ledger-Roty

Counsel to Intellicall, Inc.

JSR/kcd

Enclosure

cc: FCC Secretary
K. Brinkman
R. Baca
J. Coltharp
G. Phillips
M. Nadel
R. McElvane

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STATES IMPOSING RATE CAP OR RATE BENCHMARK ON 0+* SERVICE
(intrastate, interLATA)

Alabama	Minnesota
Arizona	Mississippi
Arkansas	Missouri
California	Nevada
Colorado	New York
Florida	Ohio
Georgia	Pennsylvania
Indiana	South Carolina
Iowa	Tennessee
Kansas	Virginia
Kentucky	Washington
Louisiana	West Virginia
Maryland	Wisconsin
Massachusetts	

* Source of data: Survey of Private Pay Telephone State Regulation, Technologies Management, Inc. (March 1994).